



**CITY OF SUNNYVALE
REPORT
Planning Commission**

January 12, 2004

SUBJECT: **2003-0839** – Appeal of a decision of the Director of Community Development denying the removal of a Deodar Cedar tree. The property is located at **810 Coolidge Avenue** in an R-2 (Low-Medium Density Residential) Zoning District. (APN: 165-17-019)

REPORT IN BRIEF

Existing Site Conditions Vacant lot

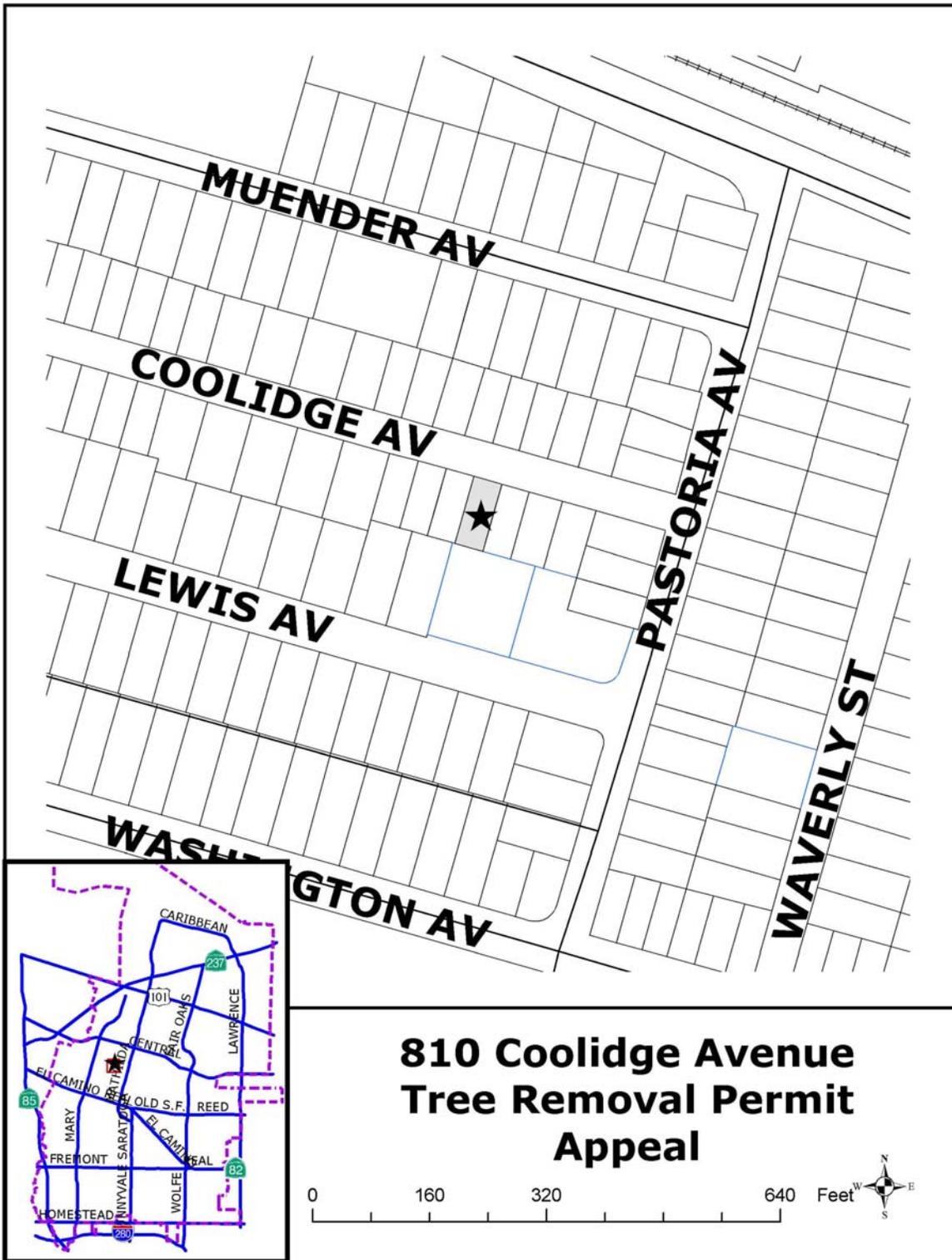
Surrounding Land Uses

North	Single-Family Residential
South	Apartment Residential
East	Single-Family Residential
West	Single-Family Residential

Issues Tree Removal Appeal

Planning Commission Action A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny the appeal and uphold the Tree Removal Permit denial.



PROJECT DATA TABLE

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>REQUIRED/ PERMITTED</u>
General Plan	Residential Low Medium Density	Same	---
Zoning District	R-2	Same	---
Lot Size (s.f.)	4,000*	Same	8,000 min.
No. of Units	0	Same	1 max.

* Lot size is legal non-conforming

ANALYSIS**Background**

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2000-0027	Design Review for a new single family home.	Staff Review/Approved	7/3/00
2001-0228	Variance to allow lot coverage of 42% where 40% is required and a front yard setback of 15 feet where 20 feet is required.	Administrative Hearing/Approved	5/30/01
2003-0839	Tree Removal Permit to remove one Deodar Cedar.	Staff Review/Denied	11/14/03

Description of Proposed Project

On October 31, 2003, the property owner requested a Tree Removal Permit for the removal of a Deodar Cedar over 38 inches in circumference (see Attachment 4 for photographs of the tree). On November 4, 2003, Planning staff inspected the tree at the site. On November 5, 2003, the City Arborist inspected the tree at the site and recommended denial of the application for removal of the tree (see Attachment 3 for City Arborist Checklist). The Director of Community Development concurred with the Arborist's recommendation and notified the applicant of the decision on November 14, 2003 (see Attachment 5

for Denial letter for Tree Removal Permit). The applicant has appealed the denial of the Tree Removal Permit

Environmental Review

A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 4 Categorical Exemptions include minor alteration to land.

Tree Preservation Ordinance

On December 12, 1991, the Tree Preservation Ordinance was established in order to preserve mature trees of significant size. Chapter 19.94 of the Sunnyvale Municipal Code defines a protected tree as a tree with circumference equal to or greater than 38 inches when measured four feet above the ground. A Tree Removal Permit must be obtained prior to the removal of a protected tree from private property in any zoning district. An application to remove a tree may be issued if:

- 1) The tree is diseased or badly damaged.
- 2) The tree represents a potential hazard to people, structures or other trees.
- 3) The tree is in sound condition, but restricts the owner's ability to enjoy the reasonable use or economic potential of the property.

Applicant's Appeal

The applicant has requested removal of the tree based on a recommendation from an Arborist hired by the applicant. The applicant's Arborist report includes the following conclusions:

- the tree is in fair condition,
- the tree has a history of limb failure and is unbalanced,
- the tree shows indications of decay and root rot,
- the tree has beetle damage and extensive root damage, and
- the new foundation to be installed may cause root damage to the tree.

The applicant expressed concern that the tree poses a serious risk and may fall on a home or power lines (see Attachment 6 for letter of appeal from applicant and Applicant's arborist report).

Staff Discussion

The decision to deny the Tree Removal Permit was based upon the required findings for tree removal, which are provided in Attachment 1.

The City Arborist and Planning Staff visited the site and determined that the tree is healthy and does not represent a hazard to people, structures or other trees. The tree appears to be in stable and undamaged condition. In addition, there is no evidence that the tree is diseased or that the roots are causing any significant damage to the surrounding driveway or walkway areas.

The City Arborist spoke with the Applicant's Arborist who provided the letter of support for the removal on November 5, 2003. The Applicant's Arborist indicated no recall of decay to the tree and stated that the letter had provided an opinion only. The Applicant's Arborist stated that he would provide further evidence to remove the tree by November 14, 2003, if it could be found; no such evidence was received by City staff.

Staff found that the Cedar is not restricting the owner's use of the property since the tree is not causing any serious detrimental effects to the front yard area. The City Arborist recommended crown reduction and occasional pruning to reduce potential limb failure.

Condition of Approval #1 in the June 3, 2000, approved Design Review for the subject property required the owner to provide a tree protection plan (see Attachment 7 for Miscellaneous Plan Permit 2000-0027 conditional approval and Building Permit Plan Correction notes from the Planning Division).

Expected Impact on the Surroundings

The Deodar Cedar is a highly visible feature in this neighborhood. Removal of this tree would have a detrimental effect on the overall streetscape since it is such a significant presence on the street.

If the Planning Commission can make a finding to approve the Tree Removal Permit, Staff recommends a Condition of Approval that the tree must be replaced within 90 days of the removal date; in accordance with the Applicant's arborist, the minimum size should be a 24-inch box size replacement tree somewhere on the property (see Attachment 2).

Findings, General Plan Goals and Conditions of Approval

Staff is recommending denial for this project because the Findings (Attachment 1) were not made; however, if the Planning Commission is able to make the required findings, staff is recommending the Conditions of Approval (Attachment 2).

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • Mailed to the adjacent property owners of the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website • Recorded for SunDial

Alternatives

1. Deny the appeal and uphold the denial of a Tree Removal Permit.
2. Grant the appeal and approve the Tree Removal Permit subject to the Conditions of Approval.
3. Grant the appeal and approve the Tree Removal Permit subject to modified Conditions of Approval.

Recommendation

Alternative 1.

Prepared by:

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Project Planner

Reviewed by:

Fred Bell
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

1. Findings
2. Conditions of Approval
3. City Arborist Inspection Worksheet
4. Photos of Tree
5. Denial letter for Tree Removal Permit
6. Letter of Appeal from the Applicant and Applicant's arborist report
7. Miscellaneous Plan Permit conditional approval and Building Permit Plan Correction notes from the Planning Division

Findings - Tree Removal Permit

In order to grant a Tree Removal Permit, one or more of the following findings must be met. Staff is unable to make these required findings.

1. The tree is diseased or badly damaged.

The subject tree is not diseased or damaged, and it is in good health.

2. The tree represents a potential hazard to people, structures or other trees.

The City Arborist inspected the site and the subject tree, and observed that the tree does not present any potential hazard to people or other trees. The City Arborist has recommended root barriers and root trimming to minimize any further impact of the tree on adjacent structures. The existing impact on the neighbor's shed will not be mitigated by removing the tree.

3. The tree is in basically sound condition, but restricts the owner's ability to enjoy the reasonable use or economic potential of the property, or unreasonably restricts an adjoining property owner's use or economic potential of the adjoining property. In the event this is the sole basis for the application, the following criteria shall be used to evaluate the application under this subsection:

- a. The necessity of the requested removal to allow construction of improvements such as additions to existing buildings or incidental site amenities or to otherwise allow economic or reasonable enjoyment of property;
- b. The topography of the land and the effect of the requested action on water retention and diversion or increased flow of surface water;
- c. The approximate age of the tree relative to its average life span;
- d. The potential effect of removal on soil erosion and stability where the tree is located;
- e. Current and future visual screening potential;
- f. Any other information the Director of Community Development finds pertinent to the application.

Staff believes that this tree is not restricting the reasonable use or economic potential of the property. The removal of the subject tree would not have a significant impact on water retention, diversion, increased flow of surface water, soil erosion or stability. The tree has a remaining life expectancy of 20 to 30 years. Staff believes that this tree provides a positive aesthetic contribution to the neighborhood.

Conditions of Approval – Tree Removal Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances and Resolutions, the Permittee expressly accepts and agrees to comply with the following Conditions of Approval.

1. One replacement tree, a minimum of 24-inch box size, shall be planted on the property or an in-lieu fee of \$210.00 shall be paid to the City to allow a tree to be planted in a City park or other public property for each tree approved for removal.
2. The replacement trees shall be planted within 90 days of the tree removal date. If the in-lieu fee is chosen, the fee shall be paid prior to issuance of the Tree Removal Permit.